



TEXAS DEPARTMENT OF INSURANCE

Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

Memorial Compounding Pharmacy

Respondent Name

Trumbull Insurance Co

MFDR Tracking Number

M4-18-0580-01

Carrier's Austin Representative

Box Number 47

MFDR Date Received

November 3, 2017

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "The carrier has received the attached bill and has not processed according to Texas Labor Code 408.027."

Amount in Dispute: \$489.96

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "Per ESI review, they are unable to process billing as it is incomplete. The compound ingredients are not included."

Response Submitted by: The Hartford, 300 S State St, One Park Place, Syracuse, NY 13202

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
May 26, 2017	Pharmacy services – Baclofen 100%	\$489.96	\$489.96

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and applicable rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §133.240 sets out the procedure for medical bill processing by the workers' compensation insurance carrier.
3. 28 Texas Administrative Code §134.503 sets out the reimbursement for pharmacy services.
4. No explanation of benefits were found in the documentation.

Issues

1. Did The Hartford pay, reduce or deny the disputed services not later than the 45th day after receiving the medical bill?
2. Is the requestor entitled to additional reimbursement?

Findings

1. This medical fee dispute was filed by the health care provider Memorial Compounding Pharmacy on November 3, 2017. Memorial Compounding Pharmacy indicates on its table of disputed services that "Baclofen 100%" was not paid by The Hartford for the medication it dispensed to a covered injured employee on May 26, 2017.

Memorial Compounding Pharmacy contends that "The carrier has received the attached bill and has not processed according to Texas Labor Code 408.027." Furthermore, in its reconsideration request, Memorial Compounding Pharmacy also alleges that "Memorial Compounding Pharmacy has not received any correspondence with explanation of review or benefits."

According to Texas Labor Code Sec. 408.027 (b) The Hartford was required to pay, reduce or deny the disputed services not later than the 45th day after it received the medical bill from Memorial Compounding Pharmacy. Corresponding 28 Texas Administrative Code §133.240 also required The Hartford to take final action by issuing an explanation of benefits not later than the statutorily-required 45th day.

The following evidence supports that The Hartford initially received the medical bill for the services in dispute on May 28, 2017.

- A copy of a fax cover sheet that indicates a "received status" on May 28, 2017 for two pages.
- A copy of a fax cover sheet that indicates a "received status" on June 7, 2017 for two pages.
- A copy of a fax cover sheet that indicates a "received status" on August 30, 2017 for four pages.

The submitted evidence indicates The Hartford received a medical bill for the service in dispute in May, June and August 2017. The Hartford failed to timely take the following actions:

Rule §133.240 (a) An insurance carrier **shall take final action** [emphasis added] after conducting bill review on a complete medical bill...**not later than the 45th day** [emphasis added] after the insurance carrier received a complete medical bill."

Rule §133.240 (e) The insurance carrier **shall send the explanation of benefits** in accordance with the elements required by §133.500 and §133.501 of this title...The explanation of benefits shall be sent to:

- (1) the health care provider when the insurance carrier makes payment or denies payment on a medical bill...

Furthermore, The Hartford's failure to timely issue an explanation of benefits to Memorial Compounding Pharmacy creates a waiver of defenses that The Hartford raised in its response to medical fee dispute resolution. According to Rule §133.307 (d)(2)(F):

28 Texas Administrative Code §133.307 (d)(2)(F) The [carrier's] response shall address only those denial reasons presented to the requestor prior to the date the request for MFDR was filed with the division and the other party. Any new denial reasons or defenses raised shall not be considered in the review.

The Division concludes that The Hartford's failure to timely issue an appropriate explanation of benefits creates a waiver of any new defenses presented in its response to medical fee dispute. Absent any evidence to the contrary, the Division finds that the services in dispute are eligible for payment.

2. Rule at 28 Texas Administrative Code §134.503 applies to the compound in dispute and states, in pertinent part:
- (a) The insurance carrier shall reimburse the health care provider or pharmacy processing agent for prescription drugs the lesser of:
 - (1) the fee established by the following formulas based on the average wholesale price (AWP) as reported by a nationally recognized pharmaceutical price guide or other publication of pharmaceutical pricing data in effect on the day the prescription drug is dispensed:
 - (A) Generic drugs: $((\text{AWP per unit}) \times (\text{number of units}) \times 1.25) + \4.00
dispensing fee per prescription = reimbursement amount;
 - (B) Brand name drugs: $((\text{AWP per unit}) \times (\text{number of units}) \times 1.09) + \4.00
dispensing fee per prescription = reimbursement amount;
 - (C) When compounding, a single compounding fee of \$15 per prescription shall be added to the calculated total for either paragraph (1)(A) or (B) of this subsection; or
 - (2) notwithstanding §133.20(e)(1) of this title (relating to Medical Bill Submission by Health Care Provider), the amount billed to the insurance carrier by the:
 - (A) health care provider; or
 - (B) pharmacy processing agent only if the health care provider has not previously billed the insurance carrier for the prescription drug and the pharmacy processing agent is billing on behalf of the health care provider.

The medication in dispute was billed by listing the drug “Baclofen 100%” and calculating the charge as required by 28 Texas Administrative Code §134.502 (a)(1).

The applicable reimbursement is shown below.

Ingredient	NDC & Type	Price	Quantity	AWP Formula §134.503(a)(1)	Billed Amount §134.503(a)(2)	Lesser of (a)(1) and (a)(2)
Baclofen 100%	38779038809 Generic	\$35.63	60	\$2,675.25	\$489.96	\$489.96
Total			60		Total	\$489.96

The total reimbursement is \$489.96. This amount is recommended.

Conclusion

For the reasons stated above, the Division finds that the requestor has established that reimbursement is due. As a result, the amount ordered is \$489.96.

ORDER

Based on the submitted information, pursuant to Texas Labor Code Sec. 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services in dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of \$489.96, plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

Authorized Signature

_____	_____	December 19, 2017
Signature	Medical Fee Dispute Resolution Officer	Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, 37 *Texas Register* 3833, applicable to disputes filed on or after June 1, 2012.

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MFDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.